

### **REMARKS**

Claims 1-12, 14-16, 22-48 are now pending in the application. Claims 43-48 have been added and claims 13 and 17-21 have been cancelled from the present application. Applicant would like to thank the Examiner for the courtesies extended to Applicant's representative during a telephone interview on September 12, 2008. During the interview, the Examiner indicated that the claims as amended herein would define patentable subject matter over the prior art reference US Patent No.6,700,933 (Wu) cited in the Office Action, but that these amendments may also necessitate further consideration. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 101**

Claims stand rejected under 35 U.S.C. §101 as being directed to unpatentable subject matter. This rejection is respectfully traversed.

Claims 17-21 have been cancelled from the application, thereby rendering this rejection moot. Claim 22 has been amended to address the rejection. Therefore, reconsideration and withdrawal of this rejection are respectfully requested.

### **REJECTION UNDER 35 U.S.C. § 102**

Claims 1-5, 9-24, 29-30, and 32-42 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 6,700,933 (Wu). This rejection is respectfully traversed.

It is believed that the originally filed claims are patentably distinct over Wu. For example, Wu does not disclose transcoding a bit stream at an intermediate network node. Thus, Wu fails to teach or suggest decoding and then encoding a scalable bit stream at the same network node. Applicant further submits that Flinn fails to cure the deficiencies of Wu. Notwithstanding, independent claims 1, 22, and 36 have been amended to more clearly define the features of the present invention. Of note, Claim 1 recites generating a new scalable bit stream, where "the new scalable bit stream having a new base layer that encodes at least a portion of the original enhancement layer therein" in combination with other aspects of the claim. Therefore, it is respectfully submitted that Claim 1, along with claims depending therefrom, defines patentable subject matter over Wu. Claims 22 and 36 recite similar subject matter and thus are patentable for similar reasons. Likewise, new claims 43-48 recite subject matter similar to claim 1. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

#### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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